

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,
ex rel. DON HANKS,
Plaintiffs,

Civil Action No. CV-08-3096

v.

(Johnson, J)
(Levy, M.J.)

AMGEN, INC.; et al.

Defendants.

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STATUS REPORT REGARDING SETOFF

On February 23, 2016, the United States of America filed its Motion for Disbursement of Funds and Setoff seeking to setoff the entire amount due to Donald Hanks, the relator herein, against the unpaid balance of the judgment for federal income taxes entered against Hanks in *United States v. Donald F. Hanks et al*, No. 3:09-cv-101 (U.S.D.C. M.D. Fla. Feb. 4, 2013). ECF Nos. 175-177. The Court has not ruled on the motion. On October 2, 2018, Hanks' attorneys filed a letter to the Court (docketed as a motion for hearing) concerning the undecided motion. ECF No. 194. To update the Court, the United States files this Status Report.

By way of background, Hanks initiated the instant suit as a relator on behalf of the United States to recover damages against Amgen Inc., among others, under the

Federal Civil False Claims Act, 31 U.S.C. § 3729 et seq. ECF No. 27. On December 20, 2012, the United States intervened pursuant to 31 U.S.C. §§ 3730(b)(2) and (b)(4) for the purposes of settlement and dismissal with respect to allegations against defendant Amgen, Inc., and declined to intervene as to all other allegations and defendants. ECF No. 32. The United States, Hanks, and Amgen entered into a settlement agreement, which resolved a number of claims against Amgen, and claims against Amgen were dismissed. ECF Nos. 32-1 and 46.

Pursuant to the settlement agreement, the United States held \$220,411.04 that it owed Hanks as his share of the Amgen settlement. Hanks' attorneys asserted an interest in those funds on account of their fees. In order to avoid unnecessary future litigation, the United States sought an order determining that it can apply the entire amount due to Hanks as a setoff against Hanks' unpaid federal income taxes. The Motion for Disbursement of Funds and Setoff was fully briefed on February 23, 2016. ECF No. 174-177.

On September 12, 2018, the Court issued its Memorandum and Order dismissing without prejudice Hanks' Fifth Amended Complaint against various defendants (not Amgen or the United States). ECF No. 191. On October 2, 2018, Hanks' attorneys filed a letter to the Court (docketed as a motion for hearing) concerning the undecided Motion for Disbursement of Funds and Setoff. ECF No. 194.

As of the date of this filing, the United States has not disbursed the \$220,411.04 due to Hanks as his share of the Amgen settlement. Because the Motion for Disbursement of Funds and Setoff remains pending, the United States has not released the funds to Hanks nor has it applied the funds to Hanks' outstanding tax liabilities.

Dated: October 16, 2018.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney
General

/s/ Boris Kukso
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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2018, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties entitled to receive it.

/s/ Boris Kukso
BORIS KUKSO
Trial Attorney
United States Department of Justice, Tax
Division